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THE NEW INSTITUTIONAL APPROACH

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Abstract: With respect to the European Union the determination of the role of the collective institutinal system seems to be particularly essential. Since a significant percentage of the acquis communautaire must compulsorily be carried out, or has high-priority over the legislation of the individual countries, the collective codification and assertion of law also seem to underpin the convincement of the institutionalists saying that the institutions of the union have a significant effect on the economic, social and other processes of the member states. The purpose of the paper is to provide an overview on the approach of the economics, on the basis of foreign specialist literature, surveys and articles. On the basis of social analysis levels defined by Oliver E. Williamson I systematize and attempt to demonstrate how deeply the representatives of the trend dealed social analysis and what the main fields of their analyses were.

Introduction

At the time when the political economy was replaced by the neo-classical economy, the subject of examination in economics was also re-structured. The analysis of the societal changes was taken over by other social sciences first of all by sociology. However, the boundaries of this share of work appearing to be firm were brought into question by economics attempting to analyse the social changes economically. Economists created a conceptional toolbar, with the help of which they attempted to derive the economic institutes' effect upon the activity of the participants of the economy from the economic formation of the costs and earnings. And, if the effect of the different social institutions upon the individual economic decisions becomes examinable by the usual means of the economic analysis, the institutions will be important for the economy as well (Gedeon 1997).

The New Institutional Economics (NIE) can be derived from the excellent reviewers of the conventional ideas, which believed that the institutions are important from the point of view of the analysis or rather they are suitable for being analyzed. Its representatives wanted to interpret the origin and the change of the institutions on economic basis: the change of the old institutions and the generation of the new ones is to a significant extent brought about by the economic market forces (Mátyás 1999).

They study the interaction of the individual decisions and the institutional changes within a theoretical framework, which states questions referring to the macro society on the ground of the micro theory. Out of its representatives firstly I would like to mention 6 Nobel laureate scholars: Kenneth Arrow, Friedrich Hayek, Gunnar Myrdal, Herbert Simon, Ronald Coase és Douglass North. Path-breakers were the scholarly activities of Alfred Chandler on the field of business history, and the researches in the structural theory carried out mainly in Carnegie, where Richard Cyert and James March can be emphasized in addition to Simon. John R. Commons and Armen Alchian also assisted the study of the institutional economy by providing important thoughts. From the side of the law cogitative theoreticians can also be found especially in connection with the law of contract, for example Karl Llewellyn, Stewart Macaulay, Ion Fuller and Ian Macneil. The German Historical School also dealt with ideas related to this (Furubotn and Richter 1991) .

1. Four levels of social analysis

The new institutional economy – emphasizes Williamson „unifies the aspect of the jurisprudence, the economics and the structural theory". Williamson makes distinction between four levels of social analysis:

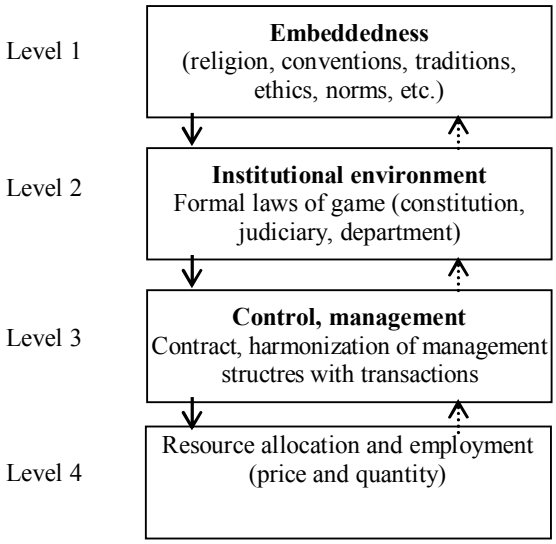

Figure 1. Levels of social analysis

The continuous arrows connecting a higher level with a lower one indicate that the higher level sets limits to the level directly below it. The dashed arrows pointing backwards connecting the lower levels with the higher ones represent the feedback, the response.
In the progress of time the system becomes more and more complex. The NIE mainly deals with levels 2 and 3.

2. First level: embeddedness

The highest level is the level of social embeddedness, social ingrainedness. There are the norms, conventions, ethics, traditions and religion. The institutions on this level change very slowly, hundreds or thousands of years are needed for the change. This level is being analyzed by several historians dealing with economics and by other scholars dealing with society (Robert Leonardi, Raffaella Nanetti, Samuel Huntington, Victor Nee), and the literature about the culture (Paul Dimaggio) also deals with it to a large extent. The problems related to this are treated by Neil Smelser and Richárd Swedberg in the introduction of their book with the title 'Handbook of Economic Sociology', in which they state that 'the concept of embeddedness still needs a lot of theoretical specification.'

Several contemplatives think that if we could get acquainted with the mechanisms, by which these informal institutions formed and can survive, and we also could understand them, it would assist the understanding of the slow change of the institutions at level 1 to a

large extent. Oliver Williamson thinks that more out of the informal institutions mentioned form spontaneously – i.e. deliberate planning is only characteristic to them in a minimal measure. If these evolutional origins are already given, then they will be 'adopted', therefore they are characterised by a high measure of 'stagnancy' – some of them because they are functional (for example the conventions); and others because of the fact that they represent a symbolic value because of gatherings of followers of the true faith (Furubotn and Richter 1991). However, the majority of the institutional economists accept this level as it is, and acknowledge that the institutions formed this way have a long term influence thereupon, how a society controls itself.

3. Second level: institutional environment

The second level is the institutional environment**.** The structures here are partly results of evolutional processes, but here already appears the possibility of sense of purpose. If we overstep the level 1 type 'informal limits (sanctions, taboos, conventions, traditions, etc.)', we get to the 'formal rules (constitutions, acts, proprietary rights)' (North) (Erik Furubotn and Rudolf Richter, 1991). This gives way to the first-rank economy, the goal of which is to define and specify the formal laws of game.

The executive-, legislative-, judicial-, and official functions of the government belong to the purposive instruments on the second level, as well as the assignation of the power between the different levels of governing (federalism). Its further important character is the determination and validation of the proprietary rights and the acts of the contractual laws. Although these are unquestionably important with respect to the productiveness of an efficient economy (Nathan Rosenberg, L. E. Birdzell, Ronald Coase, North, Paul Spiller), a progressive type, always accumulative change is hard to keep in check. Mass-dissatisfaction, civil war, (The glorious revolution –North and Barry Weingast), or the occupations after the second world war, suffered threats (meiji revolution), collapses (Eastern-Europe and the former Soviet Union), military putsch (Chile), or a financial crisis (New-Zeeland) – cause on occasions very significant breakage in the acclimatized forms. In such a case the rare opportunity for introducing reformations opens. Such 'decisive moments' count rather as exception, than regular. Our reaction to such opportunities often fails. And without such opportunities the larger modifications of the laws of game happen only once a decade or once a century. The European Union for example has already been 'developed' for fifty years, and is still in the early stages of its development (Furubotn and Richter 1991).

As I have mentioned, the proprietary rights can be put onto this level, and the researches related to its financial part were characteristic to the 1960's. One of the central topic of the institutional economics is the property structure. A competitive market ensures the freedom of the private property and the contract. Under properties we understand everything, which brings profit, or causes satisfaction in the widest sense. However, in order to realize this satisfaction, the individual must possess the property. The value of the properties to be exchanged is determined by the measure of the faculties related to the properties, which will be effectively assigned. Accordingly, the explanation of the fact that the marketable

value of two physically identical properties differs from each other lies in the fact that the rights for assets related to them are also different.

There are several categories of the rights for assets, out of which the proprietary right is the most famous one.We make distinction between three main elements of the proprietary right:

1. the right to use the thing (usus)
2. right to collect the profits (usus fructus)
3. the right of disposal with the thing (abusus)

The last element is the most important component of the proprietary right, including the proprietor's right to assign to others all of his or her property (for example by selling it) or a part of that (for example by letting it), at a mutually advantageous price. Since according to the principle „nemo plus iuris" no one is entitled to assign more rights than himself or herself is in possession of, the mean of exercising an influence on the existing proprietary structure is to control the measure of the barter and the conditions of the transaction.

The proprietary right is exclusive to the effect that it can only be restricted by persons being entitled by the rule of law (or the proprietor him-/herself). If private- or public proprietary rights are debilitated by restrictions, the expectations of the proprietor of the instrument concerning the use of the instrument will also change, therefore the value of the instrument building the ground of the proprietary right will change for the proprietor and for other people as well, and in consequence of all of this the terms of trade of the proprietary rights will also change. The restriction of the rights of the proprietor can be concerned with the modification of the form, content and place of the instrument, or with the transfer of the rights related to the instrument.

In his book 'The Federal Communications' Coase argues out that 'a system of private contractors can not function properly, unless the proprietary rights are raised from financial resources. If so, then the person, who wants to employ a financial instrument, has to pay to the proprietor in order to get that.
Both the chaos and the government cease, except for the legal system, which is needed to determine the rights and to take decisions in moot cases' (Coase) (Furubotn and Richter 1991). As soon as the rights are determined and their assertion is also ensured the government stands aside. The market operates wonderfully. Williamson means that this compact affirmation illustrates both the fortes and the weakness of the literature handling with the rights.

- The forte of this theory is that it lays emphasis on the rights, which should be the normal case (Armen Alchian, Coase, Harold Demsetz).
- Its weakness is the unreasonable use of shifts. For example the affirmation saying that the legal system will eliminate the chaos by determining and asserting the rights assumes that the determination and assertion of such rights is easy (cost-free). It can not be stated concerning a lot of transactions.

Beyond the laws of game (property) the course of the game (contract) also needs to be taken into consideration. Here we get to the control of the contractual relations in the

1970's (Furubotn and Richter 1991). And this leads us to **level 3**, where the institutions of control and lead are to be found.

4. Third level: control, management

Although the property remains an important factor, the asserting legal system determining the acts of the perfectly working sales contract is not worked out yet. Since the cost-free juridical decree is only a fiction, the affairs of the contracts and the settlement of the discussions are mostly managed by the parties themselves – on the way of private decrees. The fact also emerged that they rather conform to more acts of contract (Clyde Summers, Ian Macneil), than to one universal act. On this level the control of the contractual relations becomes the centre of the analysis. John R. Commons had already earlier imagined the operation of this by stating the followings: 'the final synthesis of the activity has to contain in itself the three theories such as conflict, mutualism and the disposal. And this synthesis is nothing else but the transaction.' This not only results that the economy has to accept the theory saying that the transaction is the basic element of the analysis, but also that the control is an attempt to get skilled in the decrees thus damping the conflict and resulting a mutual profit for both of the parties.

In the standard neoclassical theory namely the contracts were realized by the auctioneer. Faceless economic subjects met on the market for a moment to exchange standardized wares at equilibrium price. The transactions were cost-free. In case of the new institutional school there are no faceless characters, but the identity of the characters is important, and emphasis will be laid on the study of the contract-related processes, it focuses its attention on the after-period of the contract as well.

Costs were given to the transactions as well. According to Coase the cost of the transaction is nothing else, but the 'cost of the use of the price mechanism', while Demsetz defined it as 'the cost of the proprietary title'. Expanding the approaches we can say that under transactional costs we understand the losses of resource, which arise between individuals during preparation, realization, accomplishment, checking and closing of transactions.
The determination of its measure hits against significant difficulties:

- Wallis and North: wanted to enumerate the transactions costs of the American economy on the basis of the national invoices
- Demsetz made an attempt at the direct measure with the help of the costs of the financial market, on the basis of the difference of the purchase-, and the sales interest rate.

Although these approaches were without results, they unambiguously acknowledged that the measure of the transactions costs is determined by the organizational structure, and its sum is always positive. In an economy in which this sum becomes zero, the raison d'ętre of institutions like money, or the common regulation becomes queried.

A perpetual problem related to the questions mentioned above is the vertical integration, which problem was brought up by Coase in 1937 in his article counting for classic with the title 'The nature of the firm'. Out of this the fact turns out that any kind of question, which arise in relation to contracts or can be reworded can also be examined in a way, which is

useful also from the point of view of the company's conditions economizing on the transactions costs.

The possible reorganization of the transactions among the control structures is occasionally reconsidered; it might happen either annually or also once a decade, often at the time of novation of the contract or renewal of the instruments.

5. Fourth level: Resource allocation, and employment

Such different structural analysis of the control must be separated from the *level 4*, on which level the *neo-classicist analysis* operates (Erik Furubotn and Rudolf Richter, 1991).
There are optimalizing instruments, often border analysis carried out, and the company characteristically manages productive tasks with this object. The prices and the production are more or less continuously adjusted. The followings are written in notes of former analyses: an evolutional level, at which the mechanisms of the brain shape (Steven Piner). The application of these ideas in the economics is just starting to reshape our conceptions about the human factor.

Finally besides determining the social levels, Williamson focuses the attention on the question of *innovation* as well. In his opinion the essays on the structural innovations – compared to the technological innovations – were set aside to a large extent. The NIE attempts to compensate this fact. 'Out of the innovations of the mankind the utilization of the organization in order to realize the objectives of the human belongs to the earliest and the greatest ones' (Arrow). We must have respect for the penetrative importance of the technological innovation (Robert Fogel).

And due to the fact that these two operate together, a way must be found for the common handling of the structural innovations (Furubotn and Richter 1991). Although the modern institutionalism has plenty of procedures, the analyses have not resulted complete theory yet.
Despite this the theory is suitable to solve a number of practical problems, since it wants to solve the problems of the economic factors in the way of contracts concluded within emancipated relations. This way the unreasoned governmental intervention can be avoided, and at the same time the market logic succeeds.

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